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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

ECOJET, INC.,
Plaintiff,

v.

LURACO, INC.,
Defendant.

Case No.: 16-CV-00487-AG-KES

Hon. Judge Andrew J. Guilford

**DEFENDANT LURACO INC.'S EXPEDITED
MOTION AND MEMORANDUM TO
CONTINUE ECOJET'S MOTION FOR
SUMMARY JUDGMENT**

**Date: August 21, 2017
Time: 10 a.m.
Court: 10D**

I. RELIEF SOUGHT

1. Defendant Luraco seeks continuance of Ecojet's Motion for Summary Judgment currently scheduled for August 21, 2017 based on a conflict that predates the setting of Ecojet's hearing.

2. Concurrent with this motion, Luraco is filing a Motion to Amend Scheduling Order to allow the Court to hear Luraco's Motion for Summary Judgment on August 28, 2017, and suggests that the Court set both hearings for August 28, 2017, or to the next available date.

II. INTRODUCTION

3. On June 12, 2017, a trial in a bankruptcy suit was set for August 21, 2017 in an unrelated federal suit in Kansas, case number 14-40074-13, in which the undersigned is lead counsel. (A true copy of the order setting the trial is attached as Exhibit 1 to the Declaration of Warren Norred, filed concurrently with this motion.) The Kansas trial has been continued twice and cannot be delayed further, as it impacts a stalled trademark registration and dispute between two restaurant franchises currently abated in the USTPO.

4. Ecojet's motion for summary judgment was filed on July 24, 2017; Ecojet did not consult the undersigned when setting the hearing on August 21, 2017.

5. No immediate request for continuance was filed because it appeared that one or even both of the matters would be delayed or made unnecessary. In light of the developments in both cases, this continuance is necessary so that lead counsel can be present at both the Kansas trial and this Court's hearing on Ecojet's Motion for Summary Judgment.

6. Plaintiff has refused to agree to a continuance of this matter, whether to August 28th, when Luraco is seeking a hearing of its own motion for summary judgment, or some other date.

7. Luraco has filed a separate Declaration of Warren Norred in support of this Motion to Continue, which is incorporated in full.

III. MEMORANDUM IN SUPPORT

8. This motion is regulated by L.R. 7 and subsections, which governs motions for continuances.

9. Pursuant to Federal Rule of Civil Procedure 16(b)(4), a schedule may be modified for good cause and with the judge's consent.

10. Luraco asserts the prior-set trial constitutes good cause and takes precedence over the August 21st hearing on Ecojet's Motion for Summary Judgment.

1 **IV. CERTIFICATE OF ATTEMPTED RESOLUTION OF DISPUTE**

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3 11. By signing this motion, counsel for Luraco certifies that, prior to making this
4 motion, the undersigned sought conference in an attempt to resolve this matter
5 without the intervention of the Court.

6 12. Counsel for the parties conferred by email on August 2, 2017, though the
7 reasoning was based on the desire to combine the motions for summary judgment
8 and the conflict was not apparent. The undersigned added the hearing conflict
9 language on August 13, 2017 by email, and attempted to obtain agreement from
10 Jeff Grant for Ecojet in multiple emails. Mr. Grant reiterated his opposition,
11 basing it on his interpretation of the Scheduling Order, and stating that his "hands
12 were tied. (See Exhibit 7 to the Declaration of Warren Norred, filed concurrently.)

13 **V. PRAYER**

14 For the above reasons, Luraco asks the Court to grant this motion by resetting
15 Ecojet's Motion for Summary Judgment from August 21, 2017 to August 28th, or
16 any day fitting the Court's schedule.

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18 Respectfully submitted this August 14, 2017,

19 /s/ Warren V. Norred

20 Warren V. Norred (*applicant PHV*)

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 Attorneys for Defendant, Luraco, Inc.

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2 **CERTIFICATE OF SERVICE** - I hereby certify that I served all parties by the
3 Court's ECF system on all parties in interest on August 14, 2017.

4 /s/ Warren V. Norred
5 Warren V. Norred (*applicant PHV*)

6 **CERTIFICATE OF CONFERENCE** - This motion is made following the
7 conference of counsel pursuant to L.R. 7-3 which took place by email on August 2,
8 when opposing counsel refused to agree to the continuation.

9 /s/ Warren V. Norred
10 Warren V. Norred (*applicant PHV*)

11 Note: Filed concurrently with this Motion are:

- 12 1. Proposed order, granting the Motion.
13 2. The supporting Declaration of Warren V. Norred is filed concurrently, to
14 which the order setting trial on August 21, 2017 is attached.
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